

FILED**10/18/2021****THOMAS G. BRUTON**
CLERK, U.S. DISTRICT COURT**UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

RODOLFO ORTEGA

CASE NUMBER: 1:21-cr-00647
UNDER SEAL**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about October 5, 2021, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, RODOLFO ORTEGA, the defendant herein violated:

*Code Section*Title 18, United States Code, Section
922(g)(1)*Offense Description*

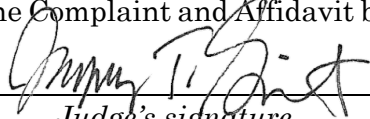
knowing that he previously had been convicted of a crime punishable by a term of imprisonment exceeding one year, did knowingly possess, in and affecting interstate commerce, two firearms, namely, a Glock, Model 19, 9mm semiautomatic pistol, bearing serial number BUAY576, and a Glock, Model 17, 9mm semiautomatic pistol, bearing serial number BNXM715, which firearms had traveled in interstate commerce prior to ORTEGA's possession of the firearms

This criminal complaint is based upon these facts:

X Continued on the attached sheet.


CHRISTOPHER LABNOSpecial Agent, Bureau of Alcohol, Tobacco,
Firearms & Explosives (ATF)

Pursuant to Fed. R. Crim. P. 4.1, this Complaint is presented by reliable electronic means. The above-named agent provided a sworn statement attesting to the truth of the Complaint and Affidavit by telephone.

Date: October 18, 2021
Judge's signatureCity and state: Chicago, IllinoisJEFFREY T. GILBERT, U.S. Magistrate Judge*Printed name and title*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

AFFIDAVIT

I, CHRISTOPHER LABNO, being duly sworn, state as follows:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF), and have been so employed for approximately twenty years. I am currently assigned to the Chicago Field Office, Organized Crime Drug Enforcement Task Force—Chicago I Enforcement Group.

2. My responsibilities include the investigation of violations of law as they relate to federal firearms offenses, including the unlawful possession of firearms or ammunition by convicted felons, firearms trafficking, violent crime, and narcotics trafficking. I employ various investigative tools such as the use of informants and witnesses, surveillance, controlled purchases of firearms and narcotics, firearms traces, telephone toll analysis, and the execution of both search warrants and arrests warrants. As an ATF Special Agent, I have been involved in the investigations of numerous firearms offenses, violent crimes and drug trafficking offenses. I have also been the affiant for multiple search warrants, pen registers, and court orders.

3. This affidavit is submitted in support of a criminal complaint alleging that, on or about October 5, 2021, RODOLFO ORTEGA, knowing that he previously had been convicted of a crime punishable by a term of imprisonment exceeding one year, did knowingly possess, in and affecting interstate commerce, two firearms, namely, a Glock, Model 19, 9mm semiautomatic pistol, bearing serial number

BUAY576, and a Glock, Model 17, 9mm semiautomatic pistol, bearing serial number BNXM715, which firearms had traveled in interstate commerce prior to ORTEGA's possession of the firearms, in violation of Title 18, United States Code, Section 922(g)(1).

4. Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of a criminal complaint charging ORTEGA with possession of a firearm by a felon, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the complaint.

5. This affidavit is based on my personal knowledge, information provided to me by other law enforcement agents, interviews of witnesses, and review of audio/video evidence.

I. FACTS ESTABLISHING PROBABLE CAUSE

Summary

6. In or around September 2021, the Chicago Police Department ("CPD") and ATF began investigating a firearms-trafficking conspiracy in the Chicago area. As described in more detail below, the scheme worked as follows: an individual known to law enforcement ("Individual A") brought firearms from St. Louis, Missouri to Chicago. Individual A then gave the firearms to an individual who recently became a

law enforcement confidential source (“CS-2”).¹ Before CS-2 began cooperating, CS-2 would give Individual A high-end marijuana in return for the firearms. CS-2 would then sell the firearms through a middleman known to law enforcement as ORTEGA. ORTEGA would sell the firearms to, among others, another law enforcement confidential source (“CS-1”).²

7. From on or about September 19, 2021 to October 5, 2021, at law enforcement’s direction, CS-1 placed a series of recorded and unrecorded telephone calls to ORTEGA and coordinated the purchase of six firearms from ORTEGA.

¹ CS-2 is cooperating in the hope of receiving credit in a pending firearm case. On or about September 23, 2021, Chicago Police Department (“CPD”) officers stopped CS-2 and recovered a Glock 43x semi-automatic 9 mm pistol. CS-2 was under indictment in a felony narcotics case in the Circuit Court of Will County and was prohibited from having a firearm. CS-2 agreed to cooperate and consented to a search of his cell phone. No promises have been made to CS-2. CS-2 has not yet been charged in that case.

² CS-1 has provided credible and truthful criminal intelligence to DEA for approximately one year. CS-1 has provided truthful and valuable information to the Chicago Police Department (“CPD”) for over a month and during this time CS-1 has participated in two controlled purchases of four firearms. On or about October 4, 2021, CS-1 began working for ATF.

CS-1 has the following felony convictions: In 1993, CS-1 was found guilty of possession of a controlled substance and was sentenced to one year of special probation. In 1997, CS-1 was found guilty of smuggling contraband into a penal institution and received a sentence of two years of probation. In 2001, CS-1 was found guilty of manufacture and delivery of cocaine and was sentenced to one year of probation. In 2001, CS-1 was found guilty of robbery, and sentenced to three years in the Illinois Department of Corrections (IDOC). In 2006, CS-1 was found guilty of distribution of a controlled substance and received a sentence of 146 months in the Bureau of Prisons (BOP) with a term of five years of supervised release which CS-1 completed.

Throughout CS-1’s work with law enforcement, CS-1 has been reimbursed for approximately \$500 in reasonable expenses incurred due to CS-1’s cooperation with law enforcement. CS-1 is not working for cooperation credit on a pending case.

Background: CS-1 Buys Four Firearms from ORTEGA at CPD's Direction

8. According to information provided by CPD officers, on or about September 19, 2021, CS-1 bought from an unknown Hispanic male (later identified as ORTEGA)³ a Bushmaster, model XM15-E25, .223-5.56 caliber rifle, bearing serial number BF1584018, in exchange for \$1,700 provided to CS-1 by CPD. Numerous CPD officers searched CS-1 both before and after the controlled purchase for contraband, firearms, and money with negative results, and conducted surveillance of this controlled purchase. It was not recorded.

9. According to information provided by CPD officers, on or about September 23, 2021, CS-1 again arranged for the controlled purchase of firearms from ORTEGA through unrecorded telephone calls.⁴ On this same date, CS-1 met with ORTEGA and purchased three firearms in exchange for \$3,800 provided to CS-1 by CPD. CS-1 purchased the following firearms from ORTEGA: (1) a Smith & Wesson, model M&P Shield, 9mm semi-automatic pistol, bearing serial number HWB9960; (2) a Taurus, model G2c, 9mm semi-automatic pistol, bearing serial number 1c053934,; and (3) a Taurus, model G2c, 9mm semi-automatic pistol, bearing serial number

³ After the September 23, 2021 controlled purchase, CPD officers utilized a commercial database to obtain the names of individuals associated with an address on the 3900 block of West Belden in Chicago—the location of this controlled purchase of firearms. The commercial database showed ORTEGA as one of the people associated with the address. After observing ORTEGA when he met with CS-1, officers recognized a photograph of ORTEGA from the commercial database. CPD officers then showed an unlabeled photograph of ORTEGA to CS-1, who identified the person in the photograph as the same person CS-1 had purchased the guns from.

⁴ These calls were not recorded because they occurred before CS-1 began working with ATF. Under CPD procedures, CPD typically does not begin recording calls until later stages of an investigation. CPD's investigation into ORTEGA had not yet advanced to that stage.

1c039264. As before, CPD officers searched CS-1 for contraband , firearms, and money both before and after the transaction with negative results, and conducted surveillance of this transaction.

10. According to CPD officers, immediately after the September 23, 2021 firearms transaction concluded, CPD officers conducting surveillance of this transaction observed ORTEGA meet with an individual who later became a law enforcement confidential source, CS-2. ORTEGA appeared to provide CS-2 with a backpack. After handing CS-2 the backpack, ORTEGA went back into a nearby apartment. After following CS-2 for a period of time, and observing CS-2 commit a traffic violation, CPD officers curbed CS-2's vehicle and searched it based on the strong odor of cannabis emitting from inside the vehicle. Upon finding and searching the above-described backpack, CPD officers found a Glock, model 43x, 9mmsemi-automatic pistol, bearing serial number BPBC345. Inside CS-2's vehicle, CPD officers found \$5,800. CPD compared the serial numbers of the money and determined that \$5,500 matched the serial numbers of the CPD pre-recorded funds which CS-1 had used to buy the aforementioned firearms from ORTEGA. Further, the \$1,700 and \$3,800 that CS-1 had received to buy the firearms detailed in paragraphs 8 and 9 added up to \$5,500, the same amount of pre-recorded funds that CS-2 had in CS-2's possession. CS-2 then agreed to cooperate with law enforcement, but no promises were made to CS-2.

Debriefing of CS-2

11. On or about September 29, 2021, ATF agents met with CS-2 for a voluntary interview. CS-2 was advised that he was free to go and that he was not under arrest. In addition, the door to the ATF was propped open so CS-2 could leave any time he wanted. This interview with CS-2 was audio recorded, and CS-2 related the following:

a. For approximately a year, he had been exchanging firearms for marijuana with an individual known to law enforcement as Individual A. Individual A drove the firearms up from St. Louis, Missouri, and gave them to CS-2 in return for high-end marijuana, vape cartridges, and pre-rolled marijuana cigarettes. CS-2 related that, over the past year, he had exchanged marijuana for guns with Individual A at least ten times, and had obtained approximately 40 to 50 firearms from Individual A. CS-2 relayed that the firearms were all new and always came in a box. CS-2 believed the firearms had never been fired.

b. When asked how he sold all of the firearms received from Individual A, CS-2 advised that he utilized a friend whom he knew as “Little Junior” to retail the guns on the street to whoever wanted to purchase firearms. CS-2 described “Little Junior” as a Hispanic male in his mid-twenties with dark hair. CS-2 stated that he knew “Little Junior” to have a felony conviction for something CS-2 believed was involving a stolen vehicle. CS-2 stated that he knew that “Little Junior” was not legally able to possess firearms. CS-2 provided agents with the phone number he used to communicate with “Little Junior,” (224) 340-5898 (“ORTEGA Phone 1”) as

“Little Junior’s” telephone number. Agents ran this number through a commercial database, and the number is not associated with any address nor any person.⁵

c. CS-2 stated that over the past six months to a year, he had provided ORTEGA approximately 20 firearms, which ORTEGA had sold and returned a portion of the proceeds to CS-2. CS-2 stated that he would “front” the firearms to ORTEGA on credit, and then let ORTEGA pay CS-2 back after he (ORTEGA) had sold the firearms and made a profit.

12. Agents showed CS-2 an unlabeled photograph of ORTEGA and CS-2 identified this as a photograph of the person he knew as “Little Junior.”

13. Based on my training and experience, and the training and experience of other law enforcement agents involved in this investigation, when CPD saw ORTEGA give CS-2 the backpack on or about September 23, 2021, ORTEGA was likely reimbursing CS-2 for firearms that CS-2 had previously provided ORTEGA on credit.

October 4, 2021: CS-1 Arranges to Buy Two Glock Pistols from ORTEGA

14. As noted above, on or about October 4, 2021, CS-1 began working as an ATF cooperating source.

15. During debriefings, CS-1 reported that on or about October 2, 2021, ORTEGA called CS-1 from Ortega Phone 1 to advise CS-1 that ORTEGA had many

⁵ Based upon my training and experience, this phone is what is called on the street a “burner” phone. That is to say, a pay-as-you-go or pre-paid cellular telephone used on the street by narcotics and firearms traffickers to avoid detection of their real identity by law enforcement and others.

people interested in two Glock 9mm pistols ORTEGA had for sale. On or about October 2, 2021, CS-1 had an unrecorded⁶ telephone call and exchanged several text messages with ORTEGA. Agents later reviewed these text messages. Under the direction of CPD officers and ATF agents, CS-1 paid ORTEGA a \$300 deposit through Cash App⁷ to the handle of “\$juniordatnigga23” in order to secure the firearms. According to Cash App records, this handle is listed as belonging to a “Rodolfo Ortega.” ATF reimbursed CS-1 for this expense. In an unrecorded phone call, CS-1 told ORTEGA that CS-1 would buy the firearms.

16. On or about October 4, 2021, at approximately 9:20 a.m., ORTEGA texted CS-1 from ORTEGA Phone 1 “What time u coming ??”

17. At approximately 11:43 a.m., at the direction of agents, CS-1 placed a monitored and recorded telephone call to ORTEGA at ORTEGA Phone 1. Based on agents’ review of the recording, when ORTEGA answered, CS-1 told ORTEGA that CS-1 had been exposed to a friend who had COVID-19 and needed to take a COVID test. CS-1 asked ORTEGA if they could conduct the transaction on October 5, 2021. CS-1 stated, “Can we do this in the morning?” ORTEGA responded, “Tomorrow?” and CS-1 agreed. ORTEGA agreed, saying, “All right, give me a call tomorrow then.” A short time later, the call ended.

October 5, 2021: ORTEGA Sells CS-1 Two Glock 9mm Semi-Automatic Pistols

⁶ Due to the spontaneous nature of the incoming call from ORTEGA and the unavailability of a recording device, this call was not recorded.

⁷ Cash App is a mobile payment service that allows users to transfer money to one another using a mobile phone.

18. On or about October 5, 2021, at approximately 9:20 a.m., CS-1 texted ORTEGA at ORTEGA Phone 1, "12:30 I can be there." ORTEGA replied, "Bet I will be waiting for u brother." CS-1 texted, "Cool."

19. That same day, at approximately 10:00 a.m., agents met up with CS-1 at a neutral location and searched CS-1 for money, firearms, and contraband with none found. CS-1 and an undercover agent (the "UC") were both equipped with audio/video recording equipment and an electronic transmitter.

20. At approximately 10:25 a.m., at the direction of agents, CS-1 placed a monitored and recorded telephone call to ORTEGA at ORTEGA Phone 1. Based on agents' review of the call, when ORTEGA answered, CS-1 told ORTEGA that CS-1 was on the way to meet ORTEGA and was about 10-15 minutes away. ORTEGA asked, "What exit are you getting off at?" CS-1 asked ORTEGA what exit CS-1 should take to meet ORTEGA. ORTEGA explained, "My cousin 'bout to leave so I can't be at his crib no more." ORTEGA and CS-1 briefly discussed a new location to meet. ORTEGA and CS-1 agreed to meet at a gas station on the 2300 block of West Fullerton Avenue in Chicago.

21. At approximately 12:15 p.m., ORTEGA texted CS-1 from ORTEGA Phone 1, "How far are u big bro?" CS-1 replied, "About 20 minutes away a little traffic but we good." ORTEGA explained that ORTEGA was five minutes away.

22. At approximately 12:52 p.m., CS-1 and the UC drove into the parking lot of the gas station on West Fullerton Avenue. A minute later, a white Acura bearing

Illinois license plate BM74871 parked on the east side of the gas station.⁸ The UC observed a Hispanic male (now identified as ORTEGA) sitting in the driver's seat of the car.⁹ The UC gave CS-1 \$2,500. The UC parked the undercover vehicle at the gas pump and observed CS-1 exit the undercover vehicle and enter the front passenger side of the white Acura.

23. Based upon agents' observations, a review of the video/audio recording associated with this transaction, and a debrief of CS-1, CS-1 entered the white Acura and greeted ORTEGA. CS-1 explained that CS-1's customers had been pressuring CS-1 to get a "drum" [high capacity drum magazine] or "clip" (high-capacity magazines) for firearms. CS-1 stated that CS-1 told the customers that CS-1 had to wait for CS-1's guy (ORTEGA). At this point, CS-1 took out \$2,500 and handed it to ORTEGA. ORTEGA responded, "What's this right here?" CS-1 responded, "twenty-five." ORTEGA handed CS-1 a red tote bag (pictured below in paragraph 26) containing one Glock 19, semi-automatic 9mm pistol, bearing serial number BUAY576, and one Glock 17, semi-automatic 9mm pistol, bearing serial number BNXM715.

⁸ The car is registered to an individual known to law enforcement (Individual B) at an address in Berwyn, Illinois. Based on information learned in the course of this investigation, law enforcement believes that Individual B and Ortega are in a relationship.

⁹ The UC had observed a CPD arrest photograph of ORTEGA and was able to compare that photo to the driver of the white Acura. The UC concluded that the man who drove the white Acura and conducted the firearms transaction with CS-1 was ORTEGA.

24. CS-1 changed the conversation back to “drums” and stated, “I’mma ask him if he can get a drum or whatever.” ORTEGA responded, “I could, I could, I got you.” CS-1 responded, “You got me?” ORTEGA responded, “I got you.” ORTEGA asked, “For what though for I need to know what for what pole [firearm] for which one.” CS-1 responded, “Ok.” ORTEGA stated, “You gotta let me know for which Glock.” CS-1 stated, “For the big one ... for the AK [AK-47 type firearm] do you gotta can you get a drum or something.” ORTEGA responded, “Yeah, I’d get a double drum for that.” CS-1 stated, “A double drum.” ORTEGA responded, “So it’s a 100 shot.” CS-1 stated, “Ok, ok, so how much that’s gonna cost.” ORTEGA stated, “I gotta talk to dude to see how much he charge me and shit I haven’t got one of those I got single drums and I know he pay \$150 for single drums [single high capacity drum magazine] so I gotta see what he charge me for that.” CS-1 responded, “Ok, that’s what’s up, that’s what’s up.” ORTEGA stated, “And then we go from there.” CS-1 responded, “Yeah.”

25. At this point, ORTEGA asked, “Just tell me how many you gonna need ... just one?” CS-1 responded, “I might need more than one bro you know what I’m sayin’ but that other thing that you had for us right that a small one the like the hand one.” ORTEGA responded, “Yeah, that one’s still there, no ones been paying that money.” CS-1 asked, “How much is it?” ORTEGA responded, “I think I told you twenty-eight [\$2,800] for that one that’s the lowest, that one shoots the Blackout [.300 Blackout is a standard caliber that is used in AR-15 type rifles].” CS-1 stated, “Ok,

ok, and see about see about them, can you get them blue tips?”¹⁰ ORTEGA responded, “I’m waiting on dude, yeah he said give me a week.” The conversation then ended and CS-1 exited the white Acura.

26. At approximately 12:55 p.m., the UC observed CS-1 exit the white Acura. The UC opened the back hatch of the undercover vehicle, and CS-1 placed a bag containing the two above-described Glock semi-automatic pistols into the back and got into the passenger side of the undercover vehicle. The UC observed ORTEGA, the sole occupant of the white Acura, drive north through the parking lot and then depart the lot eastbound onto Fullerton. The UC and CS-1 left the gas station in the undercover vehicle. Agents searched CS-1 for money, firearms, and contraband with negative results.



¹⁰ Based on my training and experience, “blue tips” refers to armor-piercing ammunition. While blue paint on the tip of military ordinance can often indicate an incendiary round of ammunition, or has a polymer tip designed to expand on impact, there is a common misperception on the street that a “blue tip” on a round of ammunition indicates that the ammunition is armor piercing.



Interstate Nexus

27. With regard to the firearms purchased from ORTEGA by CS-1 and the UC, namely, one Glock 19, semi-automatic 9mm pistol, bearing serial number: BUAY576, and one Glock 17, semi-automatic 9mm pistol, bearing serial number: BNXM715, your affiant determined that these firearms have traveled in interstate commerce. Specifically, your affiant has examined the above-described firearms personally, and have also consulted with an ATF Agent who is specially trained as an Interstate Nexus Expert.

28. Based upon my training and experience and the training and experience of the Interstate Nexus Expert, I know that Glock, the manufacturer of the above-described pistols, has never maintained a manufacturing plant or facility in the state of Illinois. Upon examination of the two firearms, I noted that the word “Austria” is engraved on the slide of each firearm. This is consistent with my training and experience, which informs me that many Glock pistols are manufactured in Austria, a country in Europe, and then imported by Glock, Inc., which is located in the state

of Georgia. Based upon these firearms' presence in Illinois, they must have traveled in interstate commerce.

ORTEGA Has Previously Been Convicted of a Felony

29. According to criminal history records obtained from law enforcement databases, ORTEGA has been convicted of felony offenses prior to October 5, 2021. Specifically, ORTEGA has the following felony convictions: 1) on or about November 13, 2015, ORTEGA was convicted of aggravated fleeing from law enforcement, a Class 4 felony punishable by a term of imprisonment exceeding one year, and sentenced to 24 months' probation in the Circuit Court of Cook County; 2) on or about April 15, 2016, ORTEGA was convicted of possession/sale of a stolen vehicle and sentenced to three years' imprisonment in the Circuit Court of Cook County.

II. CONCLUSION

30. Based on the foregoing, I respectfully submit that there is probable cause to believe that ORTEGA, knowing that he previously had been convicted of a crime punishable by a term of imprisonment exceeding one year, did knowingly possess, in and affecting interstate commerce, two firearms, namely, a Glock 19, semi-automatic 9mm pistol, bearing serial number: BUAY576, and a Glock 17, semi-automatic 9mm pistol, bearing serial number: BNXM715.

FURTHER AFFIANT SAYETH NOT.



CHRISTOPHER LABNO

Special Agent, Bureau of Alcohol, Tobacco,
Firearms & Explosives

SWORN TO AND AFFIRMED by telephone October 18, 2021.



Honorable JEFFREY T. GILBERT
United States Magistrate Judge